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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**
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12 CITY OF HUNTINGTON BEACH, a
California Charter City, and Municipal
13 Corporation, the HUNTINGTON
BEACH CITY COUNCIL, MAYOR
14 OF HUNTINGTON BEACH, TONY
STRICKLAND, and MAYOR PRO
15 TEM OF HUNTINGTON BEACH,
GRACEY VAN DER MARK,

16 Plaintiffs,

17 v.

18 GAVIN NEWSOM, in his official
capacity as Governor of the State of
19 California, and individually;
20 GUSTAVO VELASQUEZ in his
official capacity as Director of the State
21 of California Department of Housing
and Community Development, and
22 individually; STATE LEGISLATURE;
STATE OF CALIFORNIA
23 DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT;
24 SOUTHERN CALIFORNIA
ASSOCIATION OF
25 GOVERNMENTS; and DOES 1-50,
inclusive,

26 Defendants.
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Case No. 8:23-cv-00421

The Hon. Fred W. Slaughter

**[PROPOSED] ORDER GRANTING
SOUTHERN CALIFORNIA
ASSOCIATION OF
GOVERNMENTS' MOTION TO
DISMISS FIRST AMENDED
COMPLAINT**

Date: July 27, 2023
Time: 10:00 a.m.
Crtrm. 10D

Compl. filed: March 9, 2023
First Am. Compl. filed: March 27, 2023

Trial Date: None Set

1 Defendant, SOUTHERN CALIFORNIA ASSOCIATION OF
 2 GOVERNMENTS' ("SCAG") Motion to Dismiss Plaintiff's First Amended
 3 Complaint came on regularly for hearing on July 27, 2023 at 10:00 a.m. in
 4 Courtroom 10D of this Court, the Honorable Fred W. Slaughter, Judge Presiding.
 5 Defendant SCAG appeared through counsel Deborah J. Fox of Meyers Nave, and
 6 Plaintiffs City of Huntington Beach, the Huntington Beach City Council, Mayor of
 7 Huntington Beach Tony Strickland, Mayor Pro Tem of Huntington Beach, Gracey
 8 Van Der Mark (collectively, "the City,") also appeared through counsel.

9 After full consideration of the papers, evidence, exhibits and pleadings
 10 offered, and the authorities submitted by counsel, as well as oral argument by
 11 counsel, the Court HEREBY ORDERS AS FOLLOWS:

12 SCAG's Motion to Dismiss the First Amended Complaint is GRANTED
 13 without leave to amend pursuant to Rule 12(b)(1) of the Federal Rules of Civil
 14 Procedure, as the Court lacks subject matter jurisdiction over the City's claims. *City*
 15 *of South Lake Tahoe v. California Tahoe Reg'l Plan. Agency*, 625 F.2d 231, 233
 16 (9th Cir. 1980). Accordingly, the First Amended Complaint is hereby DISMISSED
 17 WITH PREJUDICE.

18 [IN THE ALTERNATIVE]

19 SCAG's Motion to Dismiss the First Amended Complaint is GRANTED
 20 without leave to amend pursuant to Rule 12(b)(6) of the Federal Rules of Civil
 21 Procedure for failure to state a claim upon which relief can be granted. The First
 22 Amended Complaint is hereby DISMISSED WITHOUT LEAVE TO AMEND
 23 AND WITH PREJUDICE.

24 [IN THE ALTERNATIVE]

25 SCAG's Motion to Dismiss the First Amended Complaint is GRANTED
 26 without leave to amend as to the City's Causes of Action One through Four pursuant
 27 to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim
 28 upon which relief can be granted. In addition, having dismissed all claims over

1 which the Court had original jurisdiction, the Court declines to exercise
2 supplemental jurisdiction over the remaining state Causes of Action Five through
3 Eleven pursuant to 28 U.S. Code § 1367 subsection (c). The First Amended
4 Complaint is hereby DISMISSED WITHOUT LEAVE TO AMEND. Dismissal of
5 claims One through Four is WITH PREJUDICE.

6 [IN THE ALTERNATIVE]

7 SCAG's Motion to Dismiss the First Amended Complaint is GRANTED.
8 Pursuant to *Younger v. Harris*, the Court ABSTAINS from adjudicating Plaintiffs'
9 claims. 401 U.S. 37 (1971); *United States v. Morros*, 268 F.3d 695, 707 (9th Cir.
10 2001). Parallel state court proceedings were pending when this action was filed
11 which implicate important state interests also implicated in these proceedings, and
12 which provide an adequate opportunity for the City to litigate its federal claims.
13 *Middlesex Cnty. Ethics Committee v. Garden State Bar Ass'n*, 457 U.S. 423, 431
14 (1982); *Herrera v. City of Palmdale*, 918 F.3d 1037, 1047 (9th Cir. 2019).
15 Accordingly, the First Amended Complaint is hereby DISMISSED WITHOUT
16 LEAVE TO AMEND.

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19 DATED:

20 _____
HON. FRED W. SLAUGHTER
UNITED STATES DISTRICT JUDGE

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